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Return or restitution of cultural property to the countries of origin

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Return or restitution of cultural property to the countries of origin

The General Assembly,

Reaffirming the relevant provisions of the Charter of the United Nations,

Recalling its resolutions 3026 A (XXVII) of 18 December 1972, 3148 (XXVIII) of 14 December 1973, 3187 (XXVIII) of 18 December 1973, 3391 (XXX) of 19 November 1975, 31/40 of 30 November 1976, 32/18 of 11 November 1977, 33/50 of 14 December 1978, 34/64 of 29 November 1979, 35/127 and 35/128 of 11 December 1980, 36/64 of 27 November 1981, 38/34 of 25 November 1983, 40/19 of 21 November 1985, 42/7 of 22 October 1987, 44/18 of 6 November 1989, 46/10 of 22 October 1991, 48/15 of 2 November 1993, 50/56 of 11 December 1995, 52/24 of 25 November 1997, 54/190 of 17 December 1999, 56/97 of 14 December 2001, 58/17 of 3 December 2003, 61/52 of 4 December 2006, 64/78 of 7 December 2009, 67/80 of 12 December 2012 and 70/76 of 9 December 2015,

Recalling also the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,[1] the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects,[2] the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict[3]

[1] United Nations, *Treaty Series*, vol. 823, No. 11806.
[2] Ibid., vol. 2421, No. 43718.
[3] Ibid., vol. 249, No. 3511.

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and the two Protocols thereto,[4] the 1972 Convention for the Protection of the World Cultural and Natural Heritage,[5] the 2001 Convention on the Protection of the Underwater Cultural Heritage,[6] the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage[7] and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions,[8]

Appreciating the decisions of the fourth meeting of States parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, held in May 2017, which encouraged all States parties to ensure the exchange of experiences and the promotion of good practices with regard to countering trafficking in cultural property and with regard to its return or restitution to the countries of origin, underlined the obligation of all States parties to urgently implement the provisions of Security Council resolutions 2199 (2015) of 12 February 2015, in particular paragraphs 15 to 17, and 2253 (2015) of 17 December 2015, in particular paragraph 15, and invited States parties to provide information regularly to the secretariat of the United Nations Educational, Scientific and Cultural Organization on the implementation of Council resolutions 2199 (2015), 2253 (2015), and 2347 (2017) of 24 March 2017,

Noting the adoption of the United Nations Convention on Jurisdictional Immunities of States and Their Property on 2 December 2004,[9] as it might apply to cultural property,

Recalling the adoption by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 17 October 2003 of the Declaration concerning the Intentional Destruction of Cultural Heritage,[10]

Noting the adoption by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 17 November 2015 of the Recommendation concerning the preservation of, and access to, documentary heritage, including in digital form,[11] and the Recommendation concerning the protection and promotion of museums and collections, their diversity and their role in society,[12]

Recalling that the 2030 Agenda for Sustainable Development[13] includes, inter alia, a pledge to foster intercultural understanding, tolerance, mutual respect and an ethic of global citizenship and shared responsibility, an acknowledgement of the natural and cultural diversity of the world and a recognition that all cultures and civilizations can contribute to, and are crucial enablers of, sustainable development, as well as targets related to the protection and return or restitution of cultural property,

Recalling also its resolution 69/196 of 18 December 2014, by which it adopted the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, and acknowledging with appreciation the role of the United Nations Office on Drugs and

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[4] Ibid., vols. 249 and 2253, No. 3511.

[5] Ibid., vol. 1037, No. 15511.

[6] Ibid., vol. 2562, No. 45694.

[7] Ibid., vol. 2368, No. 42671.

[8] Ibid., vol. 2440, No. 43977.

[9] Resolution 59/38, annex.

[10] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-second Session, Paris, 29 September–17 October 2003*, vol. 1, *Resolutions*, sect. IV, resolution 33, annex.

[11] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirty-eighth Session, Paris, 3–18 November 2015*, vol. 1, *Resolutions*, annex V.

[12] Ibid., annex IV.

[13] Resolution 70/1.

Crime in providing advisory services and technical assistance to Member States, upon their request, in the areas of crime prevention and criminal justice responses with respect to such trafficking,

Recalling further the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, adopted on 19 April 2015,[14] and noting the commitment expressed by Member States therein to strengthen and implement comprehensive crime prevention and criminal justice responses to illicit trafficking in cultural property for the purpose of providing the widest possible international cooperation to address such crime, to review and strengthen domestic legislation to counter trafficking in cultural property, where appropriate, in accordance with their commitments under international instruments, and to continue to gather and share information and statistical data on trafficking in cultural property, in particular on trafficking that involves organized criminal groups and terrorist organizations,

Recalling the resolution adopted by the Council of the World Customs Organization in July 2016 on the role of customs in preventing illicit trafficking in cultural objects,

Welcoming the report of the Secretary-General submitted in cooperation with the Director General of the United Nations Educational, Scientific and Cultural Organization,[15]

Aware of the importance attached by the countries of origin to the return or restitution of cultural property that is of fundamental spiritual, historical and cultural value to them, so that they may constitute collections representative of their cultural heritage,

Recognizing that illicit trafficking in cultural property affects all regions of the world and that every country might at the same time be a source, transit and final destination area,

Commending Member States, cultural and educational institutions, museums and civil society for their efforts to combat illicit trade and trafficking in cultural property, and welcoming all initiatives, whether by States, institutions or private persons, for the voluntary return of cultural property that has been illicitly appropriated,

Recalling the Human Rights Council resolution on cultural rights and the protection of cultural heritage of 2018,[16] which notes with deep concern that the organized looting, smuggling and theft of and illicit trafficking in cultural property could undermine the full enjoyment of cultural rights, are contrary to international law and may, in some instances, generate funds for the financing of terrorism, and encourages the strengthening of dialogue and cooperation between relevant international organizations and States affected by the organized looting, smuggling and theft of and illicit trafficking in cultural property,

Expressing deep concern about the continuing illicit trafficking in cultural property and the ensuing damage to the cultural heritage of nations,

Expressing deep concern also that cultural property, including religious sites and ritual objects, is increasingly targeted by terrorist attacks and outlawed militias,

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[14] Resolution 70/174, annex.

[15] A/73/390.

[16] *Official Records of the General Assembly, Seventy-third Session, Supplement No. 53* (A/73/53), chap. IV, sect. A, resolution 37/17.

often resulting in distortion, complete destruction, as well as theft and illicit trafficking, and condemning such attacks,

Expressing deep concern further about the loss, destruction, theft, pillage, illicit removal or misappropriation and illegal export of cultural property from archaeological sites, museums, libraries, archives and other sites and any acts of vandalism or damage directed against cultural property, in particular in areas of armed conflict, including territories that are occupied, whether such armed conflicts are international or non-international,

Reaffirming, in this regard, the necessity of strengthened international cooperation in preventing and combating all aspects of trafficking in cultural property, which is particularly at risk in the Middle East, and noting that such cultural property is often transferred either through illicit markets worldwide or through licit markets such as auctions, including through the Internet,

Recalling its resolution 69/281 of 28 May 2015, entitled "Saving the cultural heritage of Iraq",

Recalling also Security Council resolution 1483 (2003) of 22 May 2003, in particular paragraph 7, relating to the restitution of the cultural property of Iraq, and Council resolution 2056 (2012) of 5 July 2012 on the situation in Mali,

Recalling further Security Council resolution 2199 (2015), in particular paragraphs 15 to 17,

Recalling Security Council resolutions 2253 (2015), in particular paragraph 15, 2322 (2016) of 12 December 2016, in particular paragraph 12, and 2368 (2017) of 20 July 2017, in particular paragraph 7,

Recalling also Security Council resolution 2347 (2017), which is focused on the targeted destruction of cultural heritage in the context of armed conflicts, as well as on the protection of cultural property from looting, smuggling and illicit trafficking, notably by terrorist groups,

1. *Recognizes* the leading role of the United Nations Educational, Scientific and Cultural Organization in combating trafficking in cultural property, within its specific mandate and within the context of Security Council resolutions 2199 (2015) and 2347 (2017), and encourages the Organization to continue to strengthen cooperation and synergies in this field with other international bodies, including the International Criminal Police Organization (INTERPOL), the United Nations Office on Drugs and Crime, the International Council of Museums and the International Centre for the Study of the Preservation and Restoration of Cultural Property;

2. *Commends* the United Nations Educational, Scientific and Cultural Organization and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation on the work they have accomplished, in particular through the promotion of bilateral negotiations, for the return or restitution of cultural property of fundamental spiritual, historical and cultural value, the preparation of inventories of movable cultural property and the implementation of the Object-ID standard related thereto, as well as for the reduction of illicit traffic in cultural property, exchanges of experiences and good practices and the dissemination of information and tools to the public, institutions, Member States and others, and encourages the continuation of such endeavours;

3. *Commends* the United Nations Educational, Scientific and Cultural Organization on the launch of its international awareness-raising and training campaigns for heritage managers, decision makers, museum experts, law enforcement and customs authorities and legal experts from Member States in the African, Arab,

Asia-Pacific, Eastern European, Latin American and Caribbean, and Western European regions, from 2015 to 2018, aimed at preventing the illicit import, export and transfer of ownership of cultural property by providing the legal and operational knowledge and directly applicable skills to strengthen the protection of cultural property, facilitate return or restitution processes and strengthen international cooperation;

4. *Also commends* the United Nations Educational, Scientific and Cultural Organization on the launch of the Unite for Heritage campaign to raise the awareness of young people regarding the value of cultural heritage and the necessity to protect it, and calls upon Member States to promote and support that campaign;

5. *Calls upon* all relevant bodies, agencies, funds and programmes of the United Nations system and other relevant intergovernmental organizations to work in coordination with the United Nations Educational, Scientific and Cultural Organization, within their mandates and in cooperation with Member States, in order to continue to address the issue of return or restitution of cultural property to the countries of origin and to provide appropriate support accordingly;

6. *Reaffirms* the importance of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,[1] the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects,[2] the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict[3] and the two Protocols thereto,[4] the 1972 Convention for the Protection of the World Cultural and Natural Heritage,[5] the 2001 Convention on the Protection of the Underwater Cultural Heritage,[6] the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage[7] and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions,[8] and invites Member States that have not already done so to consider becoming parties to the aforementioned conventions and protocols that specifically address the return and restitution of cultural property to the countries of origin;

7. *Takes note* of the declarations and recommendations of the international forums on the return of cultural property, held in Seoul in July 2011 and October 2012, in Olympia, Greece, in October 2013, in Dunhuang, China, in September 2014 and in Nevşehir, Turkey, in October 2015;

8. *Acknowledges* the launch of the 1995 UNIDROIT Convention Academic Project and the creation of the Informal Ratification Task Force as a platform for the exchange of views, information and assistance on issues such as the ratification and implementation of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects;

9. *Takes note* of the role of the subsidiary committee of the meeting of States parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which, inter alia, promotes the purposes of the Convention, reviews national reports and prepares and submits to the meeting of States parties recommendations and guidelines that may contribute to the implementation of the Convention and identify problems arising from its implementation, while fostering exchanges of experience and good practices;

10. *Welcomes* the decisions of the third meeting of the States parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, in particular the decision to adopt the operational guidelines for the implementation of the Convention;

11. *Recognizes* the importance of the United Nations Convention on Jurisdictional Immunities of States and Their Property,[9] notes that the Convention has

still not entered into force, and invites Member States that have not already done so to consider becoming parties to the Convention;

12. *Deplores* damage to the cultural heritage of countries in situations of crisis, conflict and post-conflict, in particular recent attacks on world cultural heritage sites, calls for an immediate end to such acts, and reminds States parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and to the two Protocols thereto of the provisions contained therein to safeguard and respect cultural property and to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of and any acts of vandalism directed against cultural property;

13. *Calls upon* all Member States in a position to do so to assist the affected States in combating trafficking in cultural property illegally excavated from archaeological sites and taken from museums, libraries, archives and manuscript collections, including through international cooperation in the return or restitution of stolen or illicitly exported cultural property, as appropriate;

14. *Welcomes* the most recent efforts made by the United Nations Educational, Scientific and Cultural Organization for the protection of the cultural heritage of countries in conflict, in particular in Iraq and the Syrian Arab Republic, including the safe return to those countries of cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance that have been illegally removed, and calls upon the international community to contribute to these efforts;

15. *Acknowledges with appreciation* the adoption by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-eighth session, in November 2015, of the strategy for the reinforcement of the Organization's action for the protection of culture and the promotion of cultural pluralism in the event of armed conflict, in particular as it relates to the countering of looting and illicit trafficking in cultural property during conflicts;

16. *Urges* Member States, including, upon request, with the assistance of the United Nations Office on Drugs and Crime, and in close cooperation with the United Nations Educational, Scientific and Cultural Organization and INTERPOL, as appropriate, to introduce effective national and international measures to prevent and combat illicit trafficking in cultural property, including by publicizing legislation, in particular in the Database of National Cultural Heritage Laws of the United Nations Educational, Scientific and Cultural Organization, and by offering special training for police, customs and border services, and invites Member States to make trafficking in cultural property, including stealing from and looting of archaeological and other cultural sites, a serious crime, as defined in article 2 of the United Nations Convention against Transnational Organized Crime, [17] with a view to fully utilizing that Convention for the purpose of extensive international cooperation in fighting all forms and aspects of trafficking in cultural property and related offences;

17. *Encourages* all Member States to establish, where they do not yet exist, with the assistance of INTERPOL, upon request, specialized police units exclusively dedicated to the protection of cultural heritage to investigate cases of trafficking in cultural property, and a national stolen works of art database directly connected with the corresponding INTERPOL database;

18. *Welcomes* the adoption of the Council of Europe Convention on Offences relating to Cultural Property, which was opened for signature in Nicosia on 19 May 2017, and invites Members States to consider becoming parties to the Convention;

[17] United Nations, *Treaty Series*, vol. 2225, No. 39574.

19. *Urges* all Member States to take appropriate measures to ensure that all actors involved in the trade of cultural property, including but not limited to auction houses, art dealers, art collectors, museum professionals and managers of online marketplaces, are required to provide verifiable documentation of provenance as well as export certificates, as applicable, related to any cultural property imported, exported or offered for sale, including through the Internet;

20. *Invites* States parties to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property to apply the operational guidelines for the implementation of the 1970 Convention, which represent a useful tool to guide and assist States parties in implementing the Convention, including by learning from good practices of States parties geared to enhancing the effective implementation of the Convention, and to identify ways and means to further the achievement of the goals of the Convention through strengthened international cooperation;

21. *Reiterates its strong encouragement* to Member States to apply, to the maximum extent possible, where appropriate, with a view to strengthening international cooperation in this field, the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences,[18] which represent a useful framework to guide Member States in the development and strengthening of their criminal justice policies, strategies, legislation and cooperation mechanisms in the area of protection against trafficking in cultural property and other related offences;

22. *Invites* Member States, in cooperation with the United Nations Educational, Scientific and Cultural Organization, to continue to draw up systematic inventories of their cultural property, including in digital form;

23. *Also invites* Member States to consider establishing and developing national, regional and international databases inventorying cultural property, which would also register trafficked, illicitly exported or imported, stolen, looted or illicitly excavated, and illicitly dealt-in, cultural property, and encourages Member States, in particular their law enforcement authorities, to enhance the exchange of information by sharing or interconnecting inventories of cultural property and databases on trafficked, illicitly exported or imported, stolen, looted or illicitly excavated, and illicitly dealt-in, cultural property and contributing to international inventories and databases;

24. *Recognizes* the improvement of the Database of National Cultural Heritage Laws of the United Nations Educational, Scientific and Cultural Organization, which includes legislation from 190 Member States and translations into at least one of the official languages of the United Nations, and invites Member States to provide their legislation in electronic format for inclusion in the database if they have not yet done so, to provide regular updates to the database and to promote it;

25. *Applauds* the efforts of the United Nations Educational, Scientific and Cultural Organization to promote the use of identification and inventory systems, in particular the application of the Object-ID standard, and to encourage the linking of identification systems and existing databases, including the one developed by INTERPOL, to allow for the electronic transmission of information in order to reduce illicit trafficking in cultural property, and encourages the United Nations Educational, Scientific and Cultural Organization to make further efforts in this regard in cooperation with Member States, where appropriate;

[18] Resolution 69/196, annex.

26. *Welcomes*, in this regard, the Red Lists of Cultural Objects at Risk of the International Council of Museums and the INTERPOL database of stolen works of art as tools in the fight against illicit trafficking in cultural property, and calls upon all Member States to use those tools, as appropriate;

27. *Notes* the adoption by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, at its sixteenth session, of the rules of procedure on mediation and conciliation,[19] and invites Member States to consider the possibility of using such processes, as appropriate;

28. *Encourages* Member States to consider using the model provisions of the United Nations Educational, Scientific and Cultural Organization and the International Institute for the Unification of Private Law on State ownership of undiscovered cultural objects and adopting effective legislation for the establishment and recognition of States' ownership of their heritage, as appropriate under national laws, with a view to facilitating return or restitution in cases of unlawful removal;

29. *Notes with appreciation* the Model Export Certificate for Cultural Objects developed by the United Nations Educational, Scientific and Cultural Organization and the World Customs Organization as a tool to combat illicit trafficking in cultural property, and invites Member States to consider adopting the Model Export Certificate as their national export certificate, in accordance with domestic law and procedures;

30. *Takes note* of the resolution adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its thirty-ninth session, in November 2017, on the reports by Member States on the measures taken for the implementation of the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;

31. *Recognizes* the public awareness and increased mobilization and action in favour of heritage values achieved in 2002, the United Nations Year for Cultural Heritage, and on the occasion of the fortieth anniversary of the Convention for the Protection of the World Cultural and Natural Heritage, and calls upon the international community and the United Nations to continue to cooperate with the United Nations Educational, Scientific and Cultural Organization on the basis of that work;

32. *Invites* those who deal with trade in cultural property and their associations, where they exist, to encourage the effective implementation of the International Code of Ethics for Dealers in Cultural Property, as endorsed by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 16 November 1999,[20] the International Council of Museums Code of Ethics for Museums and other existing codes;

33. *Welcomes* the recently launched partnerships between the United Nations Educational, Scientific and Cultural Organization and cultural institutions, encompassing several lines of action aimed at combating illicit trafficking in cultural property, in order to implement awareness-raising activities for the general public, close collaboration and information exchange and cooperation on training and capacity-building initiatives, and encourages the development of further partnerships;

34. *Highlights* the importance of the continued efforts of the United Nations Educational, Scientific and Cultural Organization to strengthen discussions with art

[19] A/67/219, annex I, recommendation No. 4.

[20] See United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Thirtieth Session, Paris, 26 October–17 November 1999*, vol. 1 and corrigendum, *Resolutions*, sect. IV, resolution 27.

market professionals in order to improve existing codes of ethics, professional practices and trade, raise awareness and provide education in areas such as provenance investigations, due diligence exercises, return or restitution procedures, the use of practical tools and appropriate knowledge of the international legal framework;

35. *Recognizes* the importance of the International Fund for the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, launched in November 2000, and invites Member States to increase further their voluntary contributions to the Fund in order to enhance its efficiency, and to make use of it, as appropriate;

36. *Takes note* of the Heritage Emergency Fund of the United Nations Educational, Scientific and Cultural Organization and the international fund for the protection of endangered cultural heritage in armed conflict, as announced in Abu Dhabi on 3 December 2016, and other initiatives in this regard, and encourages Member States to provide financial contributions to support preventive and emergency operations, including, as appropriate, through documentation and consolidation of their cultural property in a network of "safe havens" in their own territories to protect their property, fight against illicit trafficking in cultural property and undertake all appropriate efforts for the recovery of cultural heritage, in the spirit of the principles of the United Nations Educational, Scientific and Cultural Organization conventions;

37. *Recognizes* the importance of cooperation among States in the fight against illicit trafficking in cultural property, as well as its illegal removal from the countries of origin, through, inter alia, the conclusion of bilateral agreements and mutual legal assistance, including the prosecution of persons involved in such activities and extradition, in accordance with the laws of cooperating States and under applicable international law;

38. *Requests* the Secretary-General to cooperate with the United Nations Educational, Scientific and Cultural Organization in its efforts to bring about the attainment of the objectives of the present resolution;

39. *Also requests* the Secretary-General, in cooperation with the Director General of the United Nations Educational, Scientific and Cultural Organization, to submit to the General Assembly at its seventy-sixth session a report on the implementation of the present resolution;

40. *Decides* to include in the provisional agenda of its seventy-sixth session the item entitled "Return or restitution of cultural property to the countries of origin".